

**Comments of Matt Prindiville, Clean Production Project Director,  
Natural Resources Council of Maine**  
Regarding the Maine DEP Report  
“Implementing Product Stewardship in Maine”

January 7, 2010

“Product Stewardship: LD 1631 is a true example of the best of the legislative process... The collaboration between the business community, the environmental community and the Legislature resulted in a much improved piece of legislation... The result was not only an improvement over the original draft of the bill, but also an advance in how Maine identifies products appropriate for management under our product stewardship programs.” - **Dana Connors, President, Maine Chamber of Commerce, March 2010 Impact**

In 2010, the Natural Resources Council of Maine (NRCM) was a key player in the effort to establish a more predictable, consistent approach to evaluating and developing product stewardship (or extended producer responsibility – EPR) initiatives in Maine. LD 1631 was passed by unanimous votes in both the House and Senate last April without a fiscal note. In addition to directing DEP to identify new candidate products for product stewardship initiatives, the new law also streamlined DEP’s reporting process for Maine’s six existing product stewardship laws and allowed the agency to make recommendations through one annual report to the Natural Resources Committee instead of through six separate reports. The report before you is the process of many of months of hard work by DEP staff. With the exception of medical sharps, the recommendations concern product categories that have long been the focus of discussions in Maine. I wrote my first piece of testimony in 2003 on product stewardship for pharmaceuticals and shortly after that same year on legislation concerning producer funding for household hazardous waste collection in Maine (of which paint is the highest in volume - and in costs - to municipal governments and local taxpayers).

The following are NRCM’s comments on the report recommendations, which we support, with some background and general comments following. We also discuss our involvement in helping to establish the Maine Product Stewardship Working Group, which was created following the passage of LD 1631 in June of 2010.

## **I. Paint**

**Leftover paint is the largest cost for local household hazardous waste management programs, costing up to \$8 per liquid gallon for recycling, equal to over half a billion dollars annually across the country.** Nine states (CT, VT, NC, FL, MN, IA, WA, OR, and CA) invested in a national paint agreement facilitated by the Product Stewardship Institute - and supported by the paint manufacturers - that resulted in a model bill. Paint manufacturers - represented by the American Coatings Association - consider these states as having priority over other states with regard to introducing industry-sponsored legislation. To date, two states (Oregon and California) have passed laws, and the remaining 7 are expected to introduce industry-sponsored bills in 2011 or 2012.

Ask any municipal solid waste official about which product gives them the biggest headache at the transfer station and they are likely to say “paint.” Residents often dispose of left-over paint with their trash, leading to hazardous and messy spills on site. Oil-based paint that is disposed of

improperly can combust creating greater hazards. And then there's the exorbitant cost of disposing of paint properly.

The good news is that latex paint is easily recycled into new paint and oil-based paint can be blended and sold as an inexpensive fuel. In Oregon and throughout Canada, the paint manufacturers have set up industry-run and funded organizations to collect, recycle and sell left-over paint from consumers. If you live in one of these jurisdictions and have left-over paint sitting around the house, you can go to a participating retailer or municipal site, and the manufacturer-run organization will take care of it from there at no cost to you, your town or your fellow taxpayers.

NRCM, the Chamber, DEP, Maine Municipal Association and others have had an ongoing and productive dialogue with the American Coatings Association, and I'm hopeful that we can reach an agreement on how to move forward with paint product stewardship in Maine.

## **II. Pharmaceuticals**

Over the past three years, 7 states (ME, RI, MD, FL, MN, OR, and WA) and the City of San Francisco (CA) have introduced legislation that would require drug companies to pay for the collection and disposal of leftover pharmaceuticals. Great Lakes area states have also expressed strong interest in this issue. There is growing support for developing safe take-back and disposal options for unwanted medications owing to concerns about drug abuse, crime (breaking and entering to steal prescription drugs - Maine leads the nation in this unfortunate statistic) and accidental poisonings, as well as aquatic impacts tied to pharmaceuticals detected in waterways.

**Although most pharmaceutical companies in the US are operating pharmaceutical takeback programs throughout Canada, primarily through return to pharmacies, the pharmaceutical industry has vigorously opposed EPR legislation in the United States.** A broad coalition of police officers and organizations, substance-abuse prevention professionals, doctors, social workers and agency officials worked on a bill to establish a product stewardship program for unwanted medications last session. The bill passed the Maine House but due to intense lobbying in the Senate from the pharmaceutical industry, the bill was never brought up for debate.

We've already heard that the pharmaceutical industry and their lobbyists are working very hard to ensure this proposal doesn't move forward. Given their participation in EPR programs throughout other parts of the world, it is ironic and somewhat disingenuous that they have marshaled this type of opposition here in the states. While we expect heavy opposition, we are hopeful that the amount of scrutiny on this issue - including multiple new bills being introduced throughout the United States - will help create momentum toward a workable product stewardship model. This will likely be a very contentious process this session as it has been for many years.

## **III. Medical Sharps:**

In the United States, more than 3 billion medical sharps are disposed of annually by people managing their own health care at home, as well as intravenous drug users. Over 40,000 people in Maine use medical sharps to manage disease, the vast majority of which are people living with diabetes. Maine DEP reports that "people using medical sharps routinely discard the in the trash at home or in public setting, or down the toilet. Many sharps users dispose of their needles in the trash because they are not aware of, or can't afford or conveniently access other disposal options."

**There are widespread reports of municipal and private solid waste employees getting stuck by hypodermic needles in household trash.** This issue is of great concern to local government officials.

The Maine Product Stewardship Working Group has had one meeting focused on medical sharps. We learned that the Maine Hospital Association owns a biomedical waste facility in Pittsfield, operated by Oxus Environmental LLC. Oxus routinely visits up to 500 health care facilities throughout the state to pick up biomedical waste. This could be the viable infrastructure needed to set up a sharps product stewardship program. There are currently 3 manufacturers that make up the majority of the market for medical sharps sold into Maine as insulin for people living with diabetes.

The conversation between manufacturers and DEP seems to be progressing well. I'm hopeful that this issue can move forward this session.

#### **IV. Allowing small businesses to participate in Maine's e-waste and lamps product stewardship programs**

This seems to be a "no-brainer" and will help small businesses reduce disposal costs by taking advantages of these two laws. Currently large companies, schools and institutions comply with Maine's solid waste disposal ban on e-waste and mercury-containing lamps primarily through contracting with companies that provide collection services. Residents can choose either municipal or participating retail sites. Small businesses are in the middle and would be better served by being able to also take advantage of these collection options at reasonably-allowable limits.

#### **V. Maine Product Stewardship Working Group**

In light of the resource constraints at DEP which prevented the creation of a formal stakeholder process, and in order to build on the collaboration forged through the LD 1631 process with Maine's business community, NRCM pulled together a meeting of key stakeholders in June of 2010 to propose the creation of informal working group. The participants, including the Maine Chamber, Maine Municipal Association, and Maine Merchants Association, among others, agreed that a working group would be useful and potentially very productive. We began meeting monthly starting in June and then bi-weekly for several months starting in late September. From our founding document, **the purpose of the Maine Product Stewardship Working Group is "to provide a collaborative environment where legislators, business interests, environmental groups, agency staff, academics and solid waste officials, may learn, dialogue and pursue sound product stewardship policy."**

We are a completely open group and have a list serve that has grown to around 70 participants. The Chamber of Commerce has participated in nearly every meeting and we have an industry engagement policy which states: "It is the intention of the Working Group to involve affected industries whenever concrete discussions arise concerning new or existing product stewardship programs. If concrete discussions around specific products have been proposed as agenda items, it is the policy of the Work Group to provide at least one week's notice to affected industries through the Chamber of Commerce, and/or through Maine representation, and/or through direct contact to the relevant trade association."

It has been made clear to participants that this is not an official stakeholder group and that its focus is to be a forum to learn, work on issues, and build trust and collaboration among stakeholders. From June 2010 through January 2011, we have met 10 times and have had many productive discussions, including presentations by industry on EPR for paint, lamps, carpet, household hazardous waste and thermostats.

#### **V. NRCM and Product Stewardship in Maine**

“We accept responsibility for continually improving the environmental design aspects of our products and their end-of-life management. Dell encourages this same level of responsibility from other producers throughout the electronics industry.” – **Dell Computers, Inc. Corporate Responsibility Summary Report, 2010**

**We began seriously working on EPR in 2003 when Maine people were discarding an estimated 80,000 waste television sets and computer monitors, adding almost 4 million pounds of toxic trash to Maine’s solid waste system.** Such waste constituted the single largest source of lead and other toxic heavy metals to Maine’s solid waste stream. While a few Maine towns did collect TVs and monitors for recycling, they typically charged between \$15 and \$25 a unit to do so. This fee provided a significant disincentive for citizens to bring their e-waste for recycling, and many outdated electronics were simply stockpiled in closets, garages and attics. In 2003, an estimated 400,000 TVs and computers were stockpiled in Maine homes, and that number was expected to grow to one million units by 2010.

**In 2004, we worked side by side with the international computer and information technology companies, Dell and Hewlett Packard to pass a landmark extended producer responsibility law for electronic waste (e-waste).** Since then, Maine has recycled over 30 million pounds of e-waste, saved taxpayers more than \$20 million dollars, and prevented more than 6 million pounds of lead and other toxics from entering our environment. Today, 23 other states have also enacted producer responsibility laws to recycle unwanted electronics and many more are working on bills this session.

Back then, it was Dell, HP and NRCM versus most of the rest of the electronics industry on EPR for e-waste. Now, most electronics companies, including many of the opponents of Maine’s original e-waste recycling legislation are supporters of EPR for electronics and have supported e-waste laws across the country. This has signaled a remarkable shift that has also occurred in other industry sectors on EPR. There are now more than 60 EPR laws passed in 32 states on 9 different product categories.

In Maine, electronics manufacturers are financing and running collection and recycling programs for unwanted television sets, computers, monitors, cell phones, mercury-containing light bulbs, video-game consoles and more. While Maine has been a leader on EPR in the United States, we’re well behind places like the European Union and Canada, which are implementing stewardship plans to get pretty much everything you can think of out of the waste stream and into recycling operations.

Perhaps what’s most important is that it’s all done by private companies and the costs are incorporated into the price of the product, instead of left to taxpayers and local governments to figure out what to do with all the unwanted stuff. Because of Maine’s EPR initiatives, new businesses have been created and existing businesses have expanded, creating jobs and helping to build out Maine’s clean tech economy. Just ask any of the folks at E-waste Recycling Solutions in Auburn or Universal Recycling Technologies, which operates throughout the state, as to how their business has grown as a direct result of Maine’s EPR laws.

With solid waste costs at 10% of municipal budgets (currently \$72 million statewide) and rising every year, product stewardship is an important tool to reduce those costs, build local businesses and protect the environment at the same time. **Traditional solid waste management is about government-run, taxpayer-funded programs. Product stewardship is essentially about**

**privatizing the waste stream with government oversight to ensure that the public's interest is protected.** As product stewardship programs mature, there's less and less government involvement. As we've seen with Maine's e-waste law, once the manufacturer-run plan is up and running, government primarily takes on auditing role, and not much more.

**VI. What is "Extended Producer Responsibility"** From the Product Stewardship Institute: "Extended producer responsibility (EPR) legislation extends a manufacturer's responsibility to include the end-of-life management of their products, including reuse, recycling, and/or safe disposal. These systems, therefore, provide a financial incentive for producers to design products that are less wasteful, less toxic, and more reusable and recyclable. They also transfer costs from taxpayers to producers and consumers, and lower overall system costs.

The EPR approach seeks to achieve:

- reduced costs to local governments and taxpayers.
- economic development, including job creation.
- reduced toxicity of waste, and increased reuse and closed-loop recycling.
- reduced energy consumption.
- less waste."

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"Each of us manufacturers of these materials has to be concerned about what happens to those materials afterwards, and has to figure out a way to get it back. It's going to cost money... I don't consider it a tax, I consider it extended producer responsibility. My associates and I in the beverage industry, I think, are ready for something like this." – **Kim Jefferies, CEO of Poland Spring, Maine Ahead**

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NRCM is Maine's leading, membership supported environmental advocacy organization. We represent over 14,000 members and supporters and work to promote science-based, solutions-oriented policies on a variety of issues including clean energy, land conservation, river restoration and growing a thriving sustainable, economy.